



North Australian Aboriginal Family Legal Service

ABN 94 099 016 613 | ICN 4641

SUBMISSION

Review of the Domestic and Family Violence Act Issues Paper 2015

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1. Introduction

This submission is provided by the North Australian Aboriginal Family Legal Service (“NAAFLS”) regarding the review of the *Domestic and Family Violence Act 2007 (NT)* (“the Act”). This paper takes into account the recommendations highlighted in the April 2015 *Review of the Domestic and Family Violence Act- Issue Paper* (“Issue Paper”) as well as broader issues in respect to family violence prevention and protection.

2. Our Organisation

NAAFLS is a government funded Aboriginal organisation and NACLC¹ accredited community legal service. We provide professional, comprehensive and culturally safe assistance and advice to Aboriginal and Torres Strait Islander victims of family violence, in remote Top End communities.

NAAFLS provides the following services:

- Legal advice and assistance in areas of Family Violence, Care and Protection of Children, Victims of Crime Compensation, Family Law, Wills, Superannuation, Housing and Debt Management;
- Information, support and referral services;
- Community legal education and family violence prevention initiatives; and
- Law reform activities.

As of July 2015, NAAFLS has expanded its service delivery to 44 communities in the Top End, including Katherine.

3. Endorsed Recommendations

In addition to endorsing the recommendations outlined in the Issue Paper, NAAFLS provides some further recommendations for consideration, which are set out below. Where no comment is made in respect to a particular recommendation in the Issue Paper, it can be presumed NAAFLS endorses the same without the need to provide further response.

While family violence is a significant problem in Australia generally, it is particularly prevalent in Indigenous communities. The NAAFLS submission is strongly influenced by our experience in working with Indigenous communities throughout the Top End.

¹ NACLC refers to the National Association of Community Legal Centres

4. Comments and Further Recommendations by NAAFLS in Considering the Issue Paper

4.1 Issues Paper Recommendation 5-1 – Defining Family violence

4.1.1 Definition of “Family violence”

It is our experience that culturally and linguistically diverse (CALD) clients, and specifically clients in remote Indigenous communities, often struggle with understanding the workings of the Act. In particular, confusion arises over the interchangeable use of the terms “domestic violence” and “family violence”.

It is recommended the Act be simplified by removing the term “domestic violence” and replacing this with “family violence”. The common interpretive framework recommended at 5.1 of the Issue Paper, could then be incorporated into the definition of “family violence” under the Act.

In summary NAAFLS recommends:

Recommendation 1: That section 5 of the Act be amended to refer to and define “**family violence**” (as opposed to “**domestic violence**”).

4.1.2 Removal of the term “Domestic Relationship”

In defining “**family violence**”, it is recommended that the reference to “**family relationship**” be used in preference to “**domestic relationship**”.

Currently, section 5 defines “**domestic violence**” as being certain conduct (which is listed) against someone with whom the person is in a “**domestic relationship**”. Section 9 then lists the various types of domestic relationships, which includes “**family relationship**”. “**Family relationship**” is then defined in section 10 as occurring when the other person is a spouse or de facto partner, or is a relative.

It is recommended that the list of relationships provided in section 10 (“**domestic relationship**”) and section 9 (“**family relationship**”) be amalgamated in the one section, under the definition of “**family relationship**”. That is:

“A person is in a “**family relationship**” with another person if the person:

- a) is or has been the spouse or de facto partner of the other person;
- b) is or has been a relative of the other person;
- c) has or had the custody or guardianship of, or right of access to, the other person;
- d) is or has been subject to the custody or guardianship of the other person or the other person has or has had a right of access to that person;
- e) ordinarily or regularly lives, or has lived with:
 - i) The other person; or

- ii) someone else who falls within paragraphs (a) and/or (b) above;
- f) is or has been a spouse, de facto partner or relative of a child of the other person;
- g) is or has been in an intimate personal relationship with the other person; or
- h) is or has been in a carers relationship with the other person.

Any terms used within the new and broader definition of “**family relationship**” such as “relative” could then be separately defined in the same way that “intimate personal relationship” and “carers relationship” are currently separately defined in sections 11 and 12 of the Act.

In summary NAAFLS recommends:

Recommendation 2: *The term “domestic relationship” be removed and the term “family relationship” be expanded to incorporate the key relationships recognised under the Act.*

4.1.3 *Expanding of the Definition of “Family Relationship” to Include an Associate Family Member*

NAAFLS recommends the inclusion of provision in the Act to address threats and other family violence behaviours arising from associates of a person who is in a “**family relationship**” (as defined pursuant to Recommendation 2 above), and who would not otherwise fall within the provisions of the Act.

Many of our clients experience threats of violence from family members or current partners of an ex-partner, who do not currently fall within the operation of the Act.

It is our recommendation that the definition of “**family relationship**” be expanded to provide protection to victims of family violence in such instances. This could be achieved by:

- a) inserting a definition into the Act of “**family member**”, as being “someone who is in a family relationship with the Protected Person as defined in section [insert section number where “**family relationship**” is defined]”; and
- b) incorporating into the definition of “**family relationship**”, “a person who is so closely connected with a family member, that the family member can influence the actions of the person, either directly or indirectly”.

It is noted a similar provision is included in the *Family Violence Protection Act 2008* (“Victorian Act”) in providing a definition of “associate” in section 4, and enabling a final order to be made against such a person where a final order has been made against the Respondent (or Defendant). It is not recommended the Northern Territory Act limit the making of an order against associates of the “family member” (as defined above), in this way. It is our submission that both interim orders and final orders should be able to be made against such persons, where appropriate, even when a Domestic Violence Order (“DVO”) has not been made against the ex-partner or other “family member”.

In summary NAAFLS recommends:

Recommendation 3: That:

- a) *the following definition of “family member” be inserted: “a family member is someone who is in a family relationship with the Protected Person, as defined in section 10” (or the appropriate number of the section of the Act where “family relationship” is defined); and*
- (b) *the definition of “family relationship” be expanded to include: “a person who is so closely connected with a family member, that the family member can influence the actions of the person, either directly or indirectly”.*

4.1.4 *Removal of the term “Domestic” from the title of the Act*

In line with the above recommendations, NAAFLS recommends removing the word “Domestic” from the title of the Act. It is further recommended the title reflect the objectives to prevent family violence and protect victims from family violence. It is submitted the title, “Family Violence Prevention and Protection Act” or similar be used.

In summary NAAFLS recommends:

Recommendation 4: *The title of the Act be altered to read ‘Family Violence Prevention and Protection Act’ or similar.*

4.2 Issues Paper Recommendation 5-2 - Examples

NAAFLS endorses the inclusion of detailed examples in the Act of behaviour that constitutes “family violence”.

Given the overrepresentation of Indigenous women as victims of family violence in the Northern Territory², it is strongly recommended that examples be provided that incorporate common Aboriginal English terms, such as “humberging” and “jealousing”.

In summary NAAFLS recommends:

Recommendation 5: *That detailed examples of behaviour constituting family violence, (which are not exhaustive) be included in the Act, including examples that incorporate Aboriginal English terms, such as “humberging” and “jealousing”.*

4.3 Issues Paper Recommendation 7-2 – Nature, Features and Dynamics

The inclusion of a provision explaining the nature, features and dynamics of family violence should expressly state:

- a) That children who are exposed to the effects of family violence are particularly vulnerable and exposure to family violence may have a serious impact on children’s current and future physical, psychological and emotional wellbeing; and

² Australian Bureau of Statistics. The health and wellbeing of Aboriginal and Torres Strait Islander women: A snapshot, 2004-05. Cat. No. 4722.0.55.001; 2007 [cited 4 September 2013] Available from: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4722.0.55.001Main+Features12004-05?OpenDocument>

- b) Whilst family violence is a significant problem for Australia generally, it is particularly prevalent in Indigenous communities.

Statistics indicate that in 2012-2013, Aboriginal women made up 73% of domestic assault victims, and were almost 22 times more likely to be victims of domestic violence assaults than non-Aboriginal women.³

Given these statistics, it is recommended that the provision should explain the prevalence and impact of family violence in Indigenous communities, with such commentary also highlighting factors which can be identified as contributing to the present levels of family violence, for example: poverty; limited access to services; alcohol and substances misuse; socio-economic disadvantages; access to housing and overcrowding in housing; workforce participation; gender inequality; and the impacts of colonisation.

In summary NAAFLS recommends:

Recommendation 6: *That a provision be inserted in the Act to state:*

- a) *That family violence is predominately committed by men against women;*
- b) *That Indigenous women are overwhelmingly represented in statistics relating to victims of family violence;*
- c) *That children who are exposed to the effects of family violence are particularly vulnerable and exposure to family violence may have a serious impact on children's current and future physical, psychological and emotional wellbeing; and*
- d) *That family violence is significantly over represented in Indigenous communities, and factors which can be identified as contributing to the levels of family violence include: poverty; limited access to services; alcohol and substances misuse; socio-economic disadvantages; access to housing and overcrowding in housing; workforce participation; gender inequality; and the impacts of colonisation.*

4.4 Issues Paper Recommendation 7-4 – Core Purposes

It is recommended a core purpose of the Act should reflect a commitment to ensuring children's safety and welfare. Currently at section 3(1) the Act states:

- "(1) *The objects of this Act are:*
- (a) *To ensure the safety and protection of all persons, including children, who experience or are exposed to domestic violence; and*
- (b) *To ensure people who commit domestic violence accept responsibility for their conduct; and*
- (c) *To reduce and prevent domestic violence."*

Rather than using the terms "all persons, including children" (or "persons" as proposed in the Issue Paper), the term "children and adults" should be used when referring to "safety and protection" as being a core purpose of the Act.

³ Refer to footnote 1.

In summary NAAFLS recommends:

Recommendation 7: *That the Act be amended to state that a core purpose of the Act is to maximise the safety for “children and adults” (as opposed to “all persons, including children” or “persons”) who have experienced family violence.*

4.5 Issues Paper Recommendation 9-2 - Recording of no further action by police

In addition to police recording when no further action is to be taken in respect to a family violence matter, and the reasons for determining this, there should be certain recording obligations by police in respect to the use of SupportLink⁴.

4.5.1 SupportLink

The SupportLink system is now being used in the Northern Territory.

SupportLink provides an integrated referral system to police and other emergency services and enables early intervention by facilitating the referral of victims of family violence (who provide their consent) to various government and non-government agencies for assistance. These agencies are linked into the SupportLink system and are required to make contact with the victim within a specified period of time.

It is the understanding of NAAFLS however that there is currently no mandatory obligation on police to use the SupportLink system.

It is recommended that under police policies and procedures, police be obliged to:

- a) explain the benefits of the SupportLink system to victims;
- b) seek a victim’s consent to be referred to services by SupportLink;
- c) make relevant referrals when consent is given; and
- d) record when consent is withheld.

In summary NAAFLS recommends:

Recommendation 8: *That police policies and procedures require police to: explain to victims of family violence the benefits of SupportLink; seek a victim’s consent to be referred to services by SupportLink; make relevant referrals when consent is given; and record when consent is withheld.*

⁴ SupportLink provides a national referral and diversion gateway for police and other emergency services to participate in early intervention. The primary role of SupportLink is to establish and support formal referral partnerships with government and non-government agencies for police to refer to. The second role of SupportLink is to provide a single referral and diversion gateway for operational police. The third role of SupportLink is to monitor and support the referral process for clients, agencies and police officers. Further information regarding SupportLink can be found at www.supportlink.com.au

4.6 Issues Paper Recommendation 11-11 – Rehabilitation and Counselling

4.7.1 Men's Behavioural Change Programs

Currently, section 24 of the Act enables the court to include on a DVO, an order requiring the Defendant to take part in a rehabilitation program. This order may be made only if the court is satisfied the Defendant is a suitable person to take part in the program, there is an available place in the program and the Defendant consents to the order.

It is recommended that the Act be amended to provide for mandatory attendance at an accredited Men's Behaviour Change Program, following the making of a final DVO and subject to the Defendant satisfying the intake criteria (or "assessment"). Further if the Defendant fails to attend or complete an assessment, or the prescribed program, this should be treated as a separate offence to that of breaching a DVO⁵.

In making this recommendation it is acknowledged that the implementation of a mandatory Men's Behavioural Change Program, would require a significant increase in facilities able to provide this program. It is accordingly recommended that such a mandatory program roll out in specific regional areas, commencing first with Darwin and Katherine, then move out to the more remote areas.

Specifically we recommend a pilot program be implemented similar to those run by Child and Family Services in Ballarat, Victoria and Kildonan Uniting Care in Heidelberg, Victoria. These two programs have been specifically approved by the Secretary of the Department of Justice, as prescribed by the relevant provisions in the Victorian Act.

We also recommend the Men's Behaviour Change Program implement a holistic approach, which allows for reflection on identity, community and cultural values relevant to Indigenous men, including those in remote communities. Programs such as the Strong Aboriginal Men programs developed and facilitated by New South Wales Health, Education Centre Against Violence should be considered in developing and implementing such programs in the Northern Territory.⁶

In summary NAAFLS recommends:

Recommendation 9: *That s24 of the Act be replaced with provisions requiring a Defendant be assessed for the Men's Behaviour Change program when a final DVO is made, and if deemed suitable, attend and complete the program. Further, any breach of the orders to attend the assessment or the program be treated as a separate offence to that of a breach of a DVO under the Act.*

Recommendation 10: *That the mandatory Men's Behaviour Change program roll out in specific regional areas, commencing first with Darwin and Katherine, then move out to the more remote areas.*

⁵ Section 121 of the Act provides the current maximum penalty for breach of a DVO is 400 penalty units or imprisonment for 2 years. A lesser penalty should apply to breaches of assessment and counselling orders. Similar provisions in respect to assessment and counselling orders are set out in the *Family Violence Protection Act, Victoria, Part 5*.

⁶ <http://www.ecav.health.nsw.gov.au/>.

Recommendation 11: *That the Men's Behaviour Change program implement a holistic approach to behavioural change, which incorporates reflection on identity, community and cultural values relevant to Indigenous men, including those in remote communities.*

4.7.2 Victim Program

We further recommend there be scope for a victim-oriented program to be developed to operate concurrently with the Men's Behaviour Change Program, so as to provide support and education for the victim (for instance by informing them as to the nature of the Men's Behaviour Change Program, assisting in understanding the cycle of family violence and the impact family violence has on the development and welfare of children; as well as supporting victims to engage in relevant support services and counselling).⁷

Further, there should be a "follow up" procedure implemented in respect to both defendants and victims so that relevant additional services can be offered if appropriate.

In summary NAAFLS recommends:

Recommendation 12: *That a victim-oriented support program be made available and run concurrently alongside the Men's Behavioural Change Program, so as to provide support and education regarding family violence, to victims.*

Recommendation 13: *That there be a follow-up procedure implemented in respect to both perpetrators and victims of family violence, so that relevant additional services can be offered as required.*

4.7 Issues Paper Recommendation 29-3 - Culturally Appropriate Victim Support

Recommendation 29.3 of the Issue Paper is strongly endorsed by NAAFLS.

4.8.1 Support for Protected Persons in Court

It is noted the Witness Assistance Service ("WAS") unit of the NT Director of Public Prosecutions, provides support to victims of crime and witnesses who need to appear in Court for the purpose of giving evidence. WAS currently have offices in Darwin, Alice Springs and Katherine and attend all courts where there are multiple hearings or otherwise have been specifically requested to attend by the police prosecutor. WAS provide extensive court support as well as referrals (for instance to counselling or on-going services).

It is recommended that a similar service be developed for Protected Persons who do not receive the assistance of WAS. This could arise, for instance, where an application for a DVO is listed in court sitting in a remote community and there are no related criminal charges. In such instances, the Protected Person should still be afforded the support of a culturally appropriate court support worker, who can assist the Protected Person in understanding the court process, support them when at court, assist them to engage with appropriate

⁷ It is noted there is a Strong Aboriginal Women's group which is also made available through New South Wales Health, Education Centre Against Violence, which assist in providing a holistic approach towards community attitudes in respect to family violence and other social impact issues. See footnote 5 for further details

services (such as interpreter and legal services), and provide them with relevant referrals (for instance, for counselling).

In summary NAAFLS recommends:

Recommendation 14: *That the Northern Territory government prioritise funding for the provision of, and access to, culturally appropriate victim support services for victims of family violence in all courts hearing DVO applications, including courts sitting in remote Indigenous communities.*

4.8.2 Further Supports Required

It is the experience of NAAFLS that Indigenous remote communities are severely under-resourced in respect to services including counsellors, drug and alcohol programs and refuge accommodation for women fleeing family violence. For instance, Milingimpi and Numbulwar in East Arnhem Land do not have a Safe House. It is therefore very difficult for women to seek refuge due to family and other members of the community often feeling compromised. Overcrowding in houses also lends to difficulties in assisting others who are seeking refuge from family violence in their home.

It is recommended that in considering what support services are required for remote Indigenous communities, consultation occur with community members to determine what particular resources are best suited for each particular community.

In summary NAAFLS recommends:

Recommendation 15: *That, in consultation with community members, specific consideration be given to resources needed in remote Indigenous communities, including (but not limited to), the provision of family violence counselling, assistance with drug and alcohol abuse and the provision of Safe Houses.*

4.8 Issue Paper Recommendation 29-4 – prioritisation of legal representation

To date, NAAFLS has received only a small number of referrals through the SupportLink system⁸. It is the understanding of NAAFLS that other legal services in the Top End have had a similar experience.

To ensure Protected Persons are afforded legal advice and assistance at the earliest opportunity, NAAFLS reiterates the need for police to seek a victim's consent to be referred to services by SupportLink and to make referrals to legal and other services via the SupportLink system, at the earliest opportunity.

In summary NAAFLS reiterates **Recommendation 8** above and notes the importance of referrals being made to legal service, at the earliest possible opportunity.

⁸ See footnote 3.

5. Further Recommendations

5.1 Service of Applications and Domestic Violence Orders

As a matter of procedural fairness and law, DVO applications, including applications seeking to vary a DVO, are required to be served on the Defendant.

NAAFLS understands there is currently a practice in place whereby the court obtains the assistance of the bailiff to effect service of DVO applications in the Darwin area, and relies on an agreement with police to attend to service in other areas, including remote communities.

In the past, police have been very accommodating in effecting service of applications that have not otherwise been issued by police (that is, applications filed by individuals and legal services). However, it has been the recent experience of our Katherine office that police are now unable to assist with service in Katherine and in remote surrounding areas, without receiving conduct money in the vicinity of \$138. It is our understanding this has been implemented by police due to a lack of resources.

The alternative of relying on a bailiff for service is unrealistic. If a Defendant lives in a remote area, the bailiff fees can be in the vicinity of \$2000 or more. The bailiffs do not have resources available to them in assisting to locate a Defendant who is (as is often the case) itinerant, which can result in delays in effecting service.

NAAFLS recommends there is a need to formally define the protocol between police and the court as to service requirements outside of the Darwin region. Furthermore, government consideration needs to be given to resource difficulties raised by police.

This issue requires urgent consideration. Should service requirements not be able to be readily facilitated by police without payment of a fee, there is a real prospect of the legislative process for obtaining DVOs in all incidents other than when police apply for DVOs, not being utilised and therefore failing to be effective. If there are barriers to seeking a DVO at an early stage (for instance when there has been verbal and emotional instances of violence, and police have not yet been required to intervene), then there is a real prospect of such matters escalating to the point where more serious violence occurs and police intervention is required.

In summary NAAFLS recommends:

Recommendation 16: *That the arrangements between the court and police for the service of all applications for DVOs, including applications to vary, be formalised in a publically available document (“the Agreement”);*

Recommendation 17: *The Agreement specify that police will not seek conduct money for service of applications for DVOs or applications to vary DVOs.*

5.2 Training for Magistrates, Police Prosecutors and Court Staff

It is the experience of NAAFLS that the court operates in a professional, aware and respectful manner when addressing family violence issues. However NAAFLS submit that an increased understanding of the dynamics of family violence, particularly in remote Indigenous communities, can only assist to improve court practice and outcomes.

It is accordingly recommended that Northern Territory Magistrates, Police Prosecutors and court staff regularly undertake family violence training. Such training should include:

- a) best practice in hearing domestic violence matters (including for instance the use of the vulnerable witness provisions, such as allowing evidence to be given by audio-visual link or from behind a screen);
- b) how the cycle of violence, trauma responses and welfare and development of children are all vital components relating to the impact of family violence in society; and
- c) the impact of family violence in remote Indigenous communities.

Further training should also be provided in the use of plain English in the court room. It is our experience that court staff and Magistrates often use legal terms to explain the operation of DVOs to Protected Persons and Defendants. Even with the use of interpreters, this can lead to significant misunderstandings by the parties as to the operation of DVOs.

In summary NAAFLS recommends:

Recommendation 18: *That Northern Territory Magistrates, Police Prosecutors and court staff regularly undertake family violence training, which includes:*

- a) *best practice in hearing domestic violence matters;*
- b) *understanding the impacts of family violence particularly in relation to children and their development;*
- c) *understanding the impact family violence has in remote Indigenous communities; and*
- d) *the use of plain English in orders and in the court room.*

5.3 Further Protection for Witnesses

Pursuant to section 114 of the Act, the court may make an order that the Defendant put a question to the court, or another person authorised by the court, which is then directed to the witness. Although this goes some way to alleviating any harmful impact on the witness, we submit that the Victorian Act offers a more suitable approach.

In Victoria, the Protected Person, a child, any family member of a party to the proceeding, and any person otherwise declared to be a 'protected witness' at the discretion of the court (for instance, due to a cognitive impairment), must not be personally cross examined by the Respondent (or Defendant), except in certain circumstances. Those circumstances require the consent of the witness and the court being satisfied that cross examination would not have a harmful impact on the protected witness.⁹

To ensure natural justice for the Respondent, there are provisions enabling the Respondent to have a reasonable opportunity to obtain legal representation,¹⁰ and if the Respondent does not obtain legal representation (for the cross examination of a protected witness), then the Court must order Victoria Legal Aid ("VLA") to offer such legal representation, such representation being subject to VLA's usual funding policies.¹¹

⁹ Family Violence Protection Act 2008 (Vic), s70

¹⁰ Family Violence Protection Act 2008 (Vic), s70(4)(c)

¹¹ Family Violence Protection Act 2008 (Vic), s71.

If the Respondent refuses legal representation, or is not otherwise represented, the court will disallow both the cross examination of protected witnesses, and the Respondent or Respondent's witnesses from giving evidence about events relevant to the application.¹²

It is recommended similar provisions be included in the Act.

It is also recommended similar provisions be encouraged to be incorporated in the Commonwealth Family Law jurisdiction.

In summary NAAFLS recommends:

Recommendation 19: That "protected witness" provisions similar to those provided in the Victorian Act be inserted in the Act, which encourage the Defendant to seek legal representation, and prevent unrepresented Defendants from cross examining a Protected Person or other vulnerable witnesses, or otherwise presenting evidence regarding the substantive application.

Recommendation 20: That similar 'protected witness' provisions to those provided in the Victorian Act, be advocated for inclusion in the Family Law Act 1975 (Cth).

5.4 Clare's Law (Domestic Violence Disclosure Scheme), United Kingdom

It is noted that in the United Kingdom ("UK") a Domestic Violence Disclosure Scheme called "Clare's Law" ("the Scheme") was introduced on a national level in March 2014.¹³ The Scheme gives concerned third parties a mechanism to make an application to seek relevant information from police regarding a person's current partner. The police are able to run police checks and share information with other service providers, such as Correctional Services. If a concern is identified (such as the individual has a record for abusive offences), or there is other information that indicates there is a pressing need to make a disclosure to prevent further crime, the police may disclose information to the person who is most able to protect the victim (not necessarily the concerned third party).

We understand that appropriate and important safeguards exist, requiring specific criteria to be met before any information is released by police to third parties, including consideration as to whether disclosure is necessary, lawful, and proportionate to protect the person.

NAAFLS recommends a similar scheme be established in the Northern Territory whereby members of the public can make enquiries to the police about an individual's family violence history, when there is a concern that the individual may be abusive towards their partner.

In summary NAAFLS recommends:

Recommendation 21: That a scheme similar to the Domestic Violence Disclosure Scheme in the United Kingdom, be introduced in the Northern Territory.

5.5 Education and Prevention

NAAFLS recommends that family violence prevention education and respectful relationships programs be delivered in schools in the Northern Territory.

¹² Family Violence Protection Act 2008 (Vic), s71(4).

¹³ The scheme was introduced following an extensive 14 month pilot program, and in response to the death of a young woman called Clare Woods, who was killed by her former partner who had a history of violence against women.

Often our service is requested to provide Community Legal Education to young children and teenagers regarding issues such as: “sexting”; accessing pornography on the internet; sexual assault; and family violence.

NAAFLS has generally declined providing such legal education to children on the basis that it is vital such education be provided in conjunction with relevant supports being made available to the children, youth and their families (such as appropriate counselling).

Further, in Indigenous communities, significant consultation with elders and families is often required at the outset to minimise any negative response to providing such education as part of a legal service. A more integrated program, such as the Love Bites Program offered by the National Association for Prevention of Child Abuse and Neglect (“NAPCAN”)¹⁴, should be delivered in schools throughout the Northern Territory. Ideally respectful relationships programs should commence at as earlier stage as possible in primary school, and progress in an age appropriate manner, throughout each child’s schooling years.

In summary NAAFLS recommends:

Recommendation 22: *That family violence prevention education and respectful relationships programs be delivered in primary and secondary schools throughout the Northern Territory, commencing in the first year of school and progressing in an age appropriate manner, throughout each child’s schooling years.*

5.6 Review of the Domestic Violence Order Application Form

It is recommended the current Form 2 – Domestic Violence Order Application, be reviewed to make the process easier for non-police Applicants to understand, and a format similar to that used in Victoria be followed. (Copies of each of these forms are annexed to this submission as “Annexure A”.

Currently, the Form 2 sets out 7 proposed conditions, which cover the overarching domestic violence elements, with a provision to “insert other if required/or else delete”.

It is recommended the current form adopt a similar format to that of the Victorian Intervention Order Application form, by setting out the following:

- (1) **What the Applicant wants the Defendant to be prevented from doing and listing these with a ‘check box’ option for each.** The option of “other (please specify)” could also be included as a check box option.
- (2) **What the Applicant wants the Defendant to be permitted to do:**

For example, check box options, specifying that the Defendant may:

- Do anything that is permitted by a *Family Law Act* order or a written agreement about child arrangements.
- Negotiate child arrangements by letter, email or text message.
- Communicate with a Protected Person through a lawyer or mediator.

¹⁴ The Love Bites program is a school based family violence and sexual assault prevention program for 15 to 17 year olds. For further details go to <http://napcan.org.au/our-programs/love-bites/#a41>.

- Arrange and/or participate in counselling or mediation.
- Other (please specify)

BUT ONLY if the Defendant does not commit family violence while doing so.

(3) What the Applicant would like the court to order the Defendant to do:

For example, allowing check box options for the following:

- The Defendant must arrange to return [specified] personal property belonging to the Protected Person within 2 days of service of this order
- Other (please specify)

Finally, it is suggested relevant proposed conditions should be provided that are culturally and linguistically appropriate, and incorporate Aboriginal English terms, such as “humberging” and “jealousing”, For example in section 1, an option could be inserted to provide:

- The Defendant stop humberging, or harassing the Protected Person.

In summary NAAFLS recommends:

Recommendation 23: *That the current Application form used to seek Domestic Violence Orders be reformatted to include:*

- (a) *Three sections to address: 1. The conditions sought in respect to preventing specified behaviour of the Defendant; 2. What is still permitted under the order; and 3. What the Defendant is required to do, under the order.*
- (b) *Check box options for conditions, in each of these sections, with a provision to specify any further condition sought, if required.*
- (c) *Specific options that incorporate Aboriginal English terms (for example:*
 - The Defendant stop humberging, or harassing the Protected Person.)*

6. Summary of Recommendations

In summary, and in addition to endorsing the recommendations made in the Issue Paper, NAAFLS recommends the following:

Recommendation 1: *That section 5 of the Act be amended to refer to and define “family violence” (as opposed to “domestic violence”).*

Recommendation 2: *The term “domestic relationship” be removed and the term “family relationship” be expanded to incorporate the key relationships recognised under the Act.*

Recommendation 3: *That:*

- a) *the following definition of “family member” be inserted: “a family member is someone who is a in a family relationship with the Protected Person, as*

defined in section 10” (or the appropriate number of the section of the Act where “family relationship” is defined); and

- b) the definition of “**family relationship**” be expanded to include: “a person who is so closely connected with a **family member**, that the **family member** can influence the actions of the person, either directly or indirectly”.

Recommendation 4: The title of the Act be altered to read ‘Family Violence Prevention and Protection Act’ or similar.

Recommendation 5: That detailed examples of behaviour constituting family violence, (which are not exhaustive) be included in the Act, including examples that incorporate Aboriginal English terms, such as “humbugging” and “jealousing”.

Recommendation 6: That a provision be inserted in the Act to state:

- a) That family violence is predominately committed by men against women;
- b) That Indigenous women are overwhelmingly represented in statistics relating to victims of family violence;
- c) That children who are exposed to the effects of family violence are particularly vulnerable and exposure to family violence may have a serious impact on children’s current and future physical, psychological and emotional wellbeing; and
- d) That family violence is significantly over represented in Indigenous communities, and factors which can be identified as contributing to the levels of family violence include: poverty; limited access to services; alcohol and substances misuse; socio-economic disadvantages; access to housing and overcrowding in housing; workforce participation; gender inequality; and the impacts of colonisation.

Recommendation 7: That the Act be amended to state that a core purpose of the Act is to maximise the safety for “children and adults” (as opposed to “all persons, including children” or “persons”) who have experienced family violence.

Recommendation 8: That police policies and procedures require police to: explain to victims of family violence the benefits of SupportLink; seek a victim’s consent to be referred to services by SupportLink; make relevant referrals when consent is given (including to legal services); and record when consent is withheld.

Recommendation 9: That s24 of the Act be replaced with provisions requiring a Defendant be assessed for the Men’s Behaviour Change program when a final DVO is made, and if deemed suitable, attend and complete the program. Further, any breach of the orders to attend the assessment or the program be treated as a separate offence to that of a breach of a DVO under the Act.

Recommendation 10: That the mandatory Men’s Behaviour Change program roll out in specific regional areas, commencing first with Darwin and Katherine, then move out to the more remote areas.

Recommendation 11: That the Men’s Behaviour Change program implement a holistic approach to behavioural change, which incorporates reflection on identity, community and cultural values relevant to Indigenous men, including those in remote communities.

Recommendation 12: That a victim-oriented support program be made available and run concurrently alongside the Men's Behavioural Change Program, so as to provide support and education regarding family violence, to victims.

Recommendation 13: That there be a follow-up procedure implemented in respect to both perpetrators and victims of family violence, so that relevant additional services can be offered as required.

Recommendation 14: That the Northern Territory government prioritise funding for the provision of, and access to, culturally appropriate victim support services for victims of family violence in all courts hearing DVO applications, including courts sitting in remote Indigenous communities.

Recommendation 15: That, in consultation with community members, specific consideration be given to resources needed in remote Indigenous communities, including (but not limited to), the provision of family violence counselling, assistance with drug and alcohol abuse and the provision of Safe Houses

Recommendation 16: That the arrangements between the court and police for the service of all applications for DVOs, including applications to vary, be formalised in a publically available document ("the Agreement");

Recommendation 17: The Agreement specify that police will not seek conduct money for service of applications for DVOs or applications to vary DVOs.

Recommendation 18: That Northern Territory Magistrates, Police Prosecutors and court staff regularly undertake family violence training, which includes:

- a) best practice in hearing domestic violence matters;
- b) understanding the impacts of family violence particularly in relation to children and their development;
- c) understanding the impact family violence has in remote Indigenous communities; and
- d) the use of plain English in orders and in the court room.

Recommendation 19: That "protected witness" provisions similar to those provided in the Victorian Act be inserted in the Act, which encourage the Defendant to seek legal representation, and prevent unrepresented Defendants from cross examining a Protected Person or other vulnerable witnesses, or otherwise presenting evidence regarding the substantive application.

Recommendation 20: That similar 'protected witness' provisions to those provided in the Victorian Act, be advocated for inclusion in the Family Law Act 1975 (Cth).

Recommendation 21: That a scheme similar to the Domestic Violence Disclosure Scheme in the United Kingdom, be introduced in the Northern Territory.

Recommendation 22: That family violence prevention education and respectful relationships programs be delivered in primary and secondary schools throughout the Northern Territory, commencing in the first year of school and progressing in an age appropriate manner, throughout each child's schooling years.

Recommendation 23: That the current Application form used to seek Domestic Violence Orders be reformatted to include:

- a) *Three sections to address: 1. The conditions sought in respect to preventing specified behaviour of the Defendant; 2. What is still permitted under the order; and 3. What the Defendant is required to do, under the order.*
- b) *Check box options for conditions, in each of these sections, with a provision to specify any further condition sought, if required.*
- c) *Specific options that incorporate Aboriginal English terms (for example: The Defendant stop humbugging, or harassing the Protected Person).*

7. Conclusion

NAAFLS appreciates the opportunity to make this submission, and supports the delivery of a more holistic and responsible government approach to the prevention of family violence and protection of victims of family violence, throughout the Northern Territory.

SUBMISSION

Review of the Domestic and Family Violence Act Issues Paper 2015

ANNEXURE A

FORM 2
NORTHERN TERRITORY OF AUSTRALIA
Domestic and Family Violence Act

Section 30

Case No: [Case Number]

APPLICATION FOR DOMESTIC VIOLENCE ORDER

APPLICANT

Name: [Client First Name/s] [Client Surname]

Address: [Address]

DEFENDANT

Name: [Other Party First Name] [Other Party Surname]

Address: [Other Party Address]

DETAILS OF PERSON/PERSONS SOUGHT TO BE PROTECTED:

Name: [Client First Name/s] [Client Surname] (DOB: [Client DOB])
[Child Name] (DOB: [Child DOB])

Address for Service: c/- North Australian Aboriginal Family Legal Service
PO Box 43104, Casuarina NT 0811

BASE OF APPLICATION

(See Pamphlet 1 – How do I apply?)

##Insert details##

DOMESTIC VIOLENCE ORDERS YOU WANT THE COURT OR THE CLERK (the Registrar of the Local Court) TO MAKE: (please delete, amend or add orders as appropriate).

The defendant is restrained from:

- (a) contacting or approaching the protected person/persons directly or indirectly;
- (b) harassing, threatening or verbally abusing the protected person/persons;
- (c) assault or threatening to assault the protected person/persons;
- (d) damaging or threatening to damage the property of the protected person/persons;
- (e) remaining at any place the protected person/persons may be living, working or visiting;
- (f) contacting or approaching the protected person/persons directly or indirectly except via or in the presence of a solicitor, family dispute resolution practitioner or Centacare worker for the purposes of making arrangements for the children and/or property of the parties or in accordance with a Parenting Plan and/or Family Law Order;
- (g) contacting or approaching the protected person/persons directly or indirectly, except for the purposes of making parenting arrangements for the children of the parties.
- (h) ~~##insert other if required / or else delete##~~

ORDERS IN FORCE NOW:

- (a) ~~##(eg Family Court Orders) ##~~

Signature: _____

Date: _____

Place: _____

NOTICE TO PARTIES

An application has been made asking the Court of Summary Jurisdiction or the Clerk to make a domestic violence order against the defendant.

THE APPLICATION WILL BE DEALT WITH:

by the Court of Summary Jurisdiction or the Clerk at

in the Northern Territory on atam/pm*.

The defendant must attend the hearing at the court on the day set out above if he/she* wishes to defend the application. IF THE DEFENDANT DOES NOT ATTEND AT COURT, the Court or the Clerk may make the orders set out in the application or other similar orders in his/her* absence. A domestic violence order made in the Northern Territory may be registered and enforced, without notice to the defendant, in a State or another Territory of the Commonwealth or in New Zealand if there is a law in force in the relevant jurisdiction to provide for the registration and enforcement of the order.

Clerk/Police Officer

Date: _____/_____/20

Place: _____

*Delete if inapplicable

EVIDENCE REQUIRED

It is recommended that you file with the Court a Statutory Declaration setting out the facts and circumstances which establish a domestic relationship between the Defendant and the Protected Person(s) and the basis for the application, what has happened to make this application necessary and what you expect in the future between the Protected Person and the Defendant.

NOTE: UPON THE HEARING OF AN APPLICATION ORAL EVIDENCE MAY ALSO BE REQUIRED.



INFORMATION FOR APPLICATION FOR AN INTERVENTION ORDER

Family Violence Protection Act 2008 Sections 42-47 & 49- 51

The information in this form assists the Court Registrar to prepare your application for an intervention order.

Answers to questions marked with ★ will not be included in the Application for an Intervention order that will be given to the respondent

Please specify application sought

- Summons for a family violence intervention order
- Warrant for a family violence intervention order
- Summons and interim family violence intervention order

Court reference no.

Date of hearing

APPLICANT (To be completed by person making application on behalf of the Affected Family Member)

Family name	<input type="text"/>
Given name	<input type="text"/>
Title	Dr Mr Ms Mrs Miss Other <input type="text"/> <i>(Select the appropriate title)</i>
Current address	<input type="text"/>
Do you wish to disclose this address?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Phone numbers	Home <input type="text"/> Work <input type="text"/> Mobile <input type="text"/>
Date of birth	<input type="text"/>

Police Registered No	<input type="text"/>
Phone	<input type="text"/>
Fax	<input type="text"/>

The Applicant is:

- a police officer
- an affected family member
- an adult (over 18) with the written consent of an affected family member
- a parent of an affected family member who is a child
- a person with the written consent of a parent of the child
- an affected family member of or about the age of 14 years with leave of the court
- the guardian of an affected family member
- a person who seeks to make the application with the leave of the court

If the applicant is not the affected family member, does the affected family member consent to the making of the final order?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If the affected family member is a child, does a parent of the child consent to the making of the final order?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If the affected family member has a guardian, does the guardian consent to the making of the final order?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

NOTE: The leave of the court is required to make the application if the applicant is either

- (a) a child aged 14 or older (but less than 18); or
- (b) a person who is not the parent of an affected family member who is a child and who does not have the written consent of a parent of the child; or
- (c) a person other than the guardian appointed under the **Guardianship and Administration Act 1986** (if an appointment has been made)

Do you require the leave of the Court? Yes No

AFFECTED FAMILY MEMBER

Who needs the Family Violence intervention order:	<input type="text"/>	
	<i>(Insert name of affected family member)</i>	
Date of birth	<input type="text"/>	
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	
Current address	<input type="text"/>	
Does the respondent know this address?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is this a rental property? Is there an existing joint tenancy agreement? Please specify	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="text"/>	
Relationship of affected family member to respondent	<input type="text"/>	
Do you need an interpreter at court?	<input type="checkbox"/> No <input type="checkbox"/> Yes – specify language <input type="text"/>	
How long have you known the respondent for?	<input type="text"/> Years	<input type="text"/> Months
Are you separated from the respondent?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
If you are separated, how long have you been separated for?	<input type="text"/> Years	<input type="text"/> Months
Does the family member have a disability? ★ Please specify	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="text"/>	
21 Is the affected family member of Aboriginal and/or Torres Strait Island origin? ★	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Both Aboriginal and Torres Strait Islander	

CHILDREN

22 Do you have any children or are there any children living in the house with you?

- No
 Yes – there are children living with me
 Yes - I have children living elsewhere
 Yes - other

Child 1

23.1 Family name

Given name

Current address

Same address as applicant

Date of birth

Postcode

Gender Male Female

Relationship to respondent?

Do you wish this child to be included in the intervention order?

No Yes

Is the child the subject of a current Family Law Act order or an application in the Family Court of Australia?

No Yes – Specify what type of order

Parenting order

Other –specify

Date of last Order

Is the child the subject of a current Children's Court order or application?

No Yes – Specify what type of order

Child Protection Order (*involving Department of Human Services*)

Intervention Order

Other –specify

Date of last Order

Child 2

Family name

Given name

Current address

Same address as applicant

Date of birth

Postcode

Gender Male Female

Relationship to respondent?

Do you wish this child to be included in the intervention order?

No Yes

Is the child the subject of a current Family Law Act order or an application in the Family Court of Australia?

No Yes – Specify what type of order

Parenting order

Other –specify

Date of last Order

Is the child the subject of a current Children's Court order or application?

No Yes – Specify what type of order

Child Protection Order (*involving Department of Human Services*)

Intervention Order

Other –specify
 Date of last Order

Child 3

Family name	<input type="text"/>
Given name	<input type="text"/>
Current address	<input type="checkbox"/> Same address as applicant <input type="text"/> <input type="text"/> Postcode <input type="text"/>
Date of birth	<input type="text"/> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
Relationship to respondent?	<input type="text"/>
Do you wish this child to be included in the intervention order?	<input type="checkbox"/> No <input type="checkbox"/> Yes
Is the child the subject of a current Family Law Act order or an application in the Family Court of Australia?	<input type="checkbox"/> No <input type="checkbox"/> Yes – Specify what type of order <input type="checkbox"/> Parenting order <input type="checkbox"/> Other –specify <input type="text"/> Date of last Order <input type="text"/>
Is the child the subject of a current Children’s Court order or application?	<input type="checkbox"/> No <input type="checkbox"/> Yes – Specify what type of order <input type="checkbox"/> Child Protection Order (<i>involving Department of Human Services</i>) <input type="checkbox"/> Intervention Order <input type="checkbox"/> Other –specify <input type="text"/> Date of last Order <input type="text"/>

Child 4

Family name	<input type="text"/>
Given name	<input type="text"/>
Current address	<input type="checkbox"/> Same address as applicant <input type="text"/> <input type="text"/> Postcode <input type="text"/>
Date of birth	<input type="text"/> Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
Relationship to respondent?	<input type="text"/>
Do you wish this child to be included in the intervention order?	<input type="checkbox"/> No <input type="checkbox"/> Yes
Is the child the subject of a current Family Law Act order or an application in the Family Court of Australia?	<input type="checkbox"/> No <input type="checkbox"/> Yes – Specify what type of order <input type="checkbox"/> Parenting order <input type="checkbox"/> Other –specify <input type="text"/> Date of last Order <input type="text"/>
Is the child the subject of a current Children’s Court order or application?	<input type="checkbox"/> No <input type="checkbox"/> Yes – Specify what type of order <input type="checkbox"/> Child Protection Order (<i>involving Department of Human Services</i>) <input type="checkbox"/> Intervention Order <input type="checkbox"/> Other –specify <input type="text"/> Date of last Order <input type="text"/>

Is there an associate of the affected family member who seeks to make an application as an additional applicant*?*

Yes
 *Complete Form FVIO2
 No

NOTE: An associate of an affected family member or a protected person, is a person who provides the affected family member or protected person with assistance or support

RESPONDENT

Who is the Application against?	<input type="text"/> <i>(Insert name of respondent)</i>
Date of birth (or approximate age)	<input type="text"/>
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female
Current address	Home address <input type="text"/> <input type="text"/> Postcode <input type="text"/>
	Work address <input type="text"/> <input type="text"/> Postcode <input type="text"/>
Does the respondent operate a business from the home address?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
Phone numbers	Home <input type="text"/> Work <input type="text"/> Mobile <input type="text"/>
Interpreter required?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not sure If yes, specify language <input type="text"/>
Does the respondent have a disability? * If yes, please specify	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="text"/>
Is the respondent of Aboriginal and/or Torres Strait Island origin? *	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander <input type="checkbox"/> Both Aboriginal and Torres Strait Islander
Does the respondent have a gun, access to a gun or a firearms licence? If the respondent has a gun or access to a gun, where is the gun located?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure Please specify location, if known <input type="text"/>
Does the respondent hold:	<input type="checkbox"/> a firearms authority <input type="checkbox"/> a weapons exemption <input type="checkbox"/> a weapons approval

Is there an associate of the respondent against whom the affected family member seeks to make an application as an additional respondent?*

NOTE: An associate of a respondent is a person who is so closely connected with the respondent that the respondent can influence the actions of the person, whether directly or indirectly

- Yes
*Complete Form FVIO3
 No

HISTORY OF FAMILY VIOLENCE INCIDENTS

The purpose of this section is to gather information about the history of family violence incidents involving the respondent, starting with the most recent incident. Please provide as much information as you can and attach additional pages if you need more space to write your answers.

Has the respondent behaved in a manner that:	<input type="checkbox"/> is physically or sexually abusive <input type="checkbox"/> is emotionally or psychologically abusive (including repeated derogatory taunts; threats to disclose your sexual orientation; threats to withhold medication; socially isolating you; or threats of self-harm) <input type="checkbox"/> is economically abusive (including; removing or disposing of property without permission, preventing you from seeking employment, coercing you to sign a financial contract or relinquish control over assets, income or finances) <input type="checkbox"/> is threatening <input type="checkbox"/> is coercive <input type="checkbox"/> in any way controls or dominates you and causes you to feel fear for your safety or wellbeing or that of another person
Has the respondent:	<input type="checkbox"/> assaulted or threatened to assault you <input type="checkbox"/> damaged your property or threatened to do so <input type="checkbox"/> deprived you of your liberty or threatened to do so <input type="checkbox"/> caused or threatened to cause the death of, or injury to, an animal so as to control, dominate or coerce you <input type="checkbox"/> caused a child to be exposed to any of these behaviours
What was the most recent incident of family violence by the respondent? <ul style="list-style-type: none">• When and where did it occur?• What happened?	

Have there been other incidents of family violence by the respondent in the past?

- When and where did they occur?
- What happened?

No Yes

Describe

Do you think these incidents may occur again?

Explain why you think these incidents are likely / not likely to occur again

No Yes

Has the respondent removed any of your personal property or the personal property of another family member against your wishes? *

No Yes

Describe

Did the police attend the most recent incident or has it been reported to police? *

No Yes

If yes, give name of person who reported it to police

Do you know the name of the police officer who attended the incident or who it was reported

No Yes – state name below

Name/Rank of Officer

to, and which police station they work at? *

Police Station

Has the respondent been charged with a criminal offence in relation to this incident? *

No Yes Unsure

25 If yes, what has the respondent been charged with? *

Please specify or describe charges if you know them

Have police taken other action? *

Please specify or describe action taken by police that you know about.

Is this the first time you have applied for an intervention order against the respondent? *

Yes No – please provide details

Court Location

Date of application

Court Reference No

Was an intervention order made? *

Yes No Unsure

Do you know if the respondent has applied for an intervention order against you? *

No Yes – please provide details

Court Location

Date

Court Reference No

If so, was an intervention order made against you? *

Yes No Unsure

COURT ORDERS

Has the respondent removed jointly owned property that would enable your everyday life to continue with as little disruption as practicable?

Yes No

Describe

How long do you want the intervention order to last?

- Less than 12 months
 12 months
 More than 12 months

Explain why you want the order to last this long

Do you need protection immediately, before an application for a family violence intervention order is heard?

(application for interim intervention order)

Yes No Unsure

Give reason/s why you want, or do not want, immediate protection. (from an interim intervention order)

Conditions of Family Violence Intervention Order

I want the respondent to be prevented from:

You may choose as many as you like from the list but the magistrate may not include all of the conditions you choose on the order.

If there is something you do not want the respondent to do which is not covered in this list, you should discuss this with the Court Registrar.

Committing family violence against the protected person(s)

Note:

The Family Violence Protection Act 2008 defines family violence as behaviour by a person towards a family member of that person that is physically or sexually abusive, emotionally or psychologically abusive, economically abusive, threatening, coercive, or in any other way controls or dominates a family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person.

Family Violence includes behaviour that causes a child to hear or witness or otherwise be exposed to the effects of these behaviours.

Intentionally **damage any property of the protected person(s)** or threaten to do so.

Attempting to locate, **follow** the protected person(s) or keep him/her/them under surveillance.

Publishing on the internet, by email or other electronic communication any material about the protected person.

Contacting or communicating with the protected person(s), by any means.

Approaching or remaining within _____ metres of a protected person.

Going to or remaining within _____ metres of

_____ or any other place where a protected person lives, works or attends school/childcare.

Getting another person to do anything the respondent must not do under this order.

I would like exceptions included in the order:

The respondent may:

- (a) do anything that is permitted by a Family Law Act order, a child protection order or a written agreement about child arrangements; or
- (b) negotiate child arrangements by letter, email or text message; or
- (c) communicate with a protected person through a lawyer or mediator; or
- (d) arrange and/or participate in counselling or mediation; or
- (e) go to the home of a protected person, in the company of a police officer or a person chosen by the applicant, to collect personal property.

BUT ONLY if the respondent does not commit family violence while doing so.

I want the Court to order:

- The respondent must arrange to **return personal property** belonging to the protected person/s within 2 days of the service of the order.
- The respondent must arrange to **return jointly owned property** within 2 days of the service of the order.
- Any **firearms authority** held by the respondent to be cancelled. The respondent must hand any firearms in his/her possession to police immediately.
- Any **weapons approval or weapons exemption** held by the respondent to be revoked. The respondent must hand any weapons in his/her possession to police.
- I would like the Court to encourage the respondent to contact the **Men's Referral Service**.

Children's arrangements:

- I would like the Family Law Act order about my children to be revived, varied or suspended.
- I do not believe that my safety or the safety of my child/ren will be jeopardised by the child/ren living with, spending time with or communicating with the respondent. I understand that the Court will require children's arrangements (including handover arrangements) to be in writing.
- I believe that it may jeopardise my safety and / or the safety of my child/ren for my child/ren
 - to live with,
 - spend time with or
 - communicate with the respondent.

Other:

FURTHER INFORMATION

The information on this page is collected to help us to better understand who requires an Intervention Order. It will also help us match you with support services you may find helpful.

The information provided on this page will not be provided to the respondent.

Who referred you to court? *

- Police
 Family or friend
 Family Violence Outreach Worker
 Counsellor or health worker
 Other – please specify
 Not referred by any person

Were you born in Australia? *

- Yes
 No – please state which country you were born in

What language do you speak at home? *

- English
 Other – please specify what language

Was the respondent born in Australia? *

- Yes
 No – please state which country
 Unsure

What language does the respondent speak at home? *

- English
 Other – please specify what language

Once you have completed this form, you will need to meet with the Court Registrar about your application for a Family Violence Intervention Order. Please tell the Court Registrar if you need a Family Violence Intervention Order urgently.

You can:

- Contact the Court Registrar at your local Magistrates' Court by phone to make an appointment about your application.
- Take the completed form to the Court Registrar at your local Magistrates' Court to talk about your application. You may need to wait to see the Court Registrar if you do not have an appointment.

You must sign this form in front of the Court Registrar.

Affidavit

I _____
make oath / *affirm and say that the contents of my application are true and correct to the best of my knowledge.

(Under section 141 of The Evidence Act 1958 a person who makes an affidavit knowing the contents of the affidavit to be false may be punished for the offence of perjury)

Sworn/Affirmed at:

on _____ (date)

Signature of person making the affidavit

Before me

Name _____

Title _____

Address _____

(A person authorised under section 123C(1) of the Evidence Act 1958 to take an affidavit.)

Certification*

I _____
certify that the information contained in this application is true and correct to the best of my knowledge.

I understand that making a certification knowing the document to be false in any particular constitutes an offence punishable by 120 penalty points

Certified at

on _____ (date)

Signature of person making certification

Name _____

Title/Rank _____

Court/ _____

Police Station _____

**For use by police and registrars only*